

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

THE BUCKEYE INSTITUTE,

Plaintiff,

v.

INTERNAL REVENUE SERVICE,
ET AL.,

Defendants.

Case No. 2:22-cv-04297

Judge Michael H. Watson

Magistrate Judge Elizabeth A.
Deavers

**MOTION OF ADVANCING AMERICAN FREEDOM FOUNDATION, OTHER
TAX-EXEMPT ENTITIES, AND CURRENT AND FORMER BOARD
MEMBERS OF TAX-EXEMPT ENTITIES FOR LEAVE TO FILE *AMICI
CURIAE* BRIEF IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT**

ADVANCING AMERICAN FREEDOM
FOUNDATION, et al.

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MOTION FOR LEAVE TO FILE

Advancing American Freedom Foundation, Other Tax-Exempt Entities, and Current and Former Board Members of Tax-Exempt Entities respectfully request leave to file the attached amici brief in support of Plaintiff's Motion for Summary Judgment. The brief that Amici propose to file is attached as Exhibit A.

Respectfully submitted,

ADVANCING AMERICAN FREEDOM
FOUNDATION, et al.

/s/ Frank M. Strigari

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**Magistrate Judge Elizabeth A.
Deavers**

**MEMORANDUM IN SUPPORT OF PROPOSED *AMICI CURIAE*'S MOTION
FOR LEAVE TO FILE *AMICI CURIAE* BRIEF IN SUPPORT OF
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

Proposed Amici Curiae Advancing American Freedom Foundation, Other Tax-Exempt Entities, and Current and Former Board Members of Tax-Exempt Entities respectfully submit this memorandum in support of their Motion for Leave to File *Amici Curiae* Brief in Support of Plaintiff's Motion for Summary Judgment.

INTEREST OF PROPOSED AMICI CURIAE

The Advancing American Freedom Foundation (“AAFF”) is a not-for-profit corporation based in Indianapolis, Indiana, and organized under Section 501(c)(3) of the Internal Revenue Code. Founded by former Vice President Mike Pence, AAFF promotes and defends conservative policies and traditional American values that have yielded unprecedented prosperity at home and restored America’s strength abroad. As a 501(c)(3) organization, AAFF is required to file a Schedule B along with its annual IRS Form 990. AAFF has a substantial interest in ensuring its

contributors' associational rights are not infringed by Schedule B's overbroad and unnecessary disclosure requirements. In addition, ensuring continued robust protection of the First Amendment freedoms of speech and association is a core aspect of AAFF's mission.

The following organizations are also organized under Section 501(c)(3) and interested in protecting their First Amendment rights and the rights of their donors from Schedule B's compelled disclosure of donor information: Alabama Policy Institute, Inc., American Conservative Union Foundation, Inc., American Juris Link, Americans for Limited Government Research Foundation, Inc., Anglicans for Life, Inc., Catholics Count, Center for Political Renewal, Inc., Center for Urban Renewal and Education, Center of the American Experiment, Christians Engaged Action Fund, Citizen Action Defense Fund, Concerned Women for America, Donors Trust, Inc., Eagle Forum Foundation, The Family Foundation of Kentucky, Inc., The Family Foundation of Virginia, Inc., Foundation for Government Accountability, Inc., The Freedom Foundation, The Freedom Foundation of Minnesota, Frontline Policy Council, Inc., Georgia Public Policy Foundation, Inc., Goldwater Institute, Heartbeat International, Idaho Family Policy Center, Inc., Illinois Policy Institute, Independent Women's Forum, Independent Women's Law Center, The Institute for Faith & Family, Institute of Liberty, Inc., International Conference of Evangelical Chaplain Endorsers, The James Madison Center for Free Speech, The John Locke Foundation, Inc., The Justice Foundation, Kansas Policy Institute, Liberty Justice Center, Mackinac Center for Public Policy, Maine Policy Institute, Manhattan Institute for

Policy Research, Inc., My Faith Votes, National Apostolic Christian Leadership Conference, National Association of Parents, Inc., d/b/a/ Parents USA, National Center for Public Policy Research, National Religious Broadcasters, Nevada Policy Research Institute, New Jersey Family Foundation, The North Carolina Institute for Constitutional Law, Pelican Institute for Public Policy, People United for Privacy Foundation, Project 21 Black Leadership Network, RI Center for Freedom & Prosperity, Rio Grande Foundation, Roughrider Policy Center, Russell Kirk Center for Cultural Renewal, Southeastern Legal Foundation, Inc., Students for Life America, Inc., Texas Values, Upper Midwest Law Center, Wisconsin Institute for Law & Liberty, Yankee Institute for Public Policy, and Young America's Foundation.

The following organizations are organized under Section 501(c)(4) of the Internal Revenue Code, and because 501(c)(4) organizations often have companion 501(c)(3) organizations, these organizations have an interest in protecting the First Amendment rights of 501(c)(3) organizations and their donors from Schedule B's compelled disclosure: 60 Plus Association, Inc., AFA Action, Inc., Army of Parents, Delaware Family Policy Council, Inc., Faith and Freedom Coalition, Inc., The Family Action Council of Tennessee, Inc., Minnesota Family Council, National Committee for Religious Freedom, Stand Up Michigan, Inc., and Students for Life Action, Inc.

Gary Bauer is President of American Values, a 501(c)(3) organization. Charlie Gerow and Tim Jones are individuals who have served as board members for 501(c)(3) and 501(c)(4) entities. These individuals are interested in protecting the speech and

associational rights of these entities and their donors from compelled disclosure of donor information on Schedule B.

DISCLOSURE STATEMENT

Pursuant to S.D. Ohio Civ. R. 7.1.1, Amici state that none has a parent corporation, and no publicly held corporation owns 10 percent or more of its stock. To Amici's knowledge, no publicly held corporation or its affiliate has a substantial financial interest in the outcome of this litigation by reason of insurance, a franchise agreement, or an indemnity agreement. Amici affirm that no counsel for any party authored this Motion or the attached brief in whole or in part. Additionally, no counsel for any Party made any monetary contribution to the preparation or submission of this Motion or the attached brief. No person other than AAFF made a monetary contribution to the preparation and submission of this brief.

ARGUMENT

Amici's brief will be useful to the Court's resolution of the important issues in this case. The brief provides a more in-depth overview of First Amendment compelled disclosure doctrine than the parties were able to provide in their individual briefs, including a summary of how the McCarthy and Civil Rights eras inform modern compelled disclosure law. The brief also highlights the IRS's inability to demonstrate a need for its sweeping compelled disclosure of donor information to further its interest in revenue collection and how the agency's history of carelessly handling confidential taxpayer information threatens to chill freedom of association.

CONCLUSION

For the foregoing reasons, Amici respectfully request this Court to grant this Motion for Leave to File *Amici Curiae* Brief.

Respectfully submitted,

ADVANCING AMERICAN FREEDOM
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CERTIFICATE OF SERVICE

I hereby certify that on September 27, 2023, the foregoing was filed electronically with the Clerk of the Court for the United States District Court for the Southern District of Ohio by using the CM/ECF system. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/ Frank M. Strigari

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